lent waves caused by the defendant's steamboat, such being held a collision, not by the one running upon the other, but by forcing some other object upon it; *London Assurance* v. *Companhia De Moagens,* 167 U. S. 149, where the vessel all loaded and ready to sail was still at the dock. That the colliding object need not be on the same horizontal plane for a collision to occur, was decided in the principal case. In *Rouse* v. *St. Paul Fire & Marine Co.,* (Mo. App.), 219 S. W. 688, where the automobile skidded off an embankment and struck the ground below, this was held to be a collision, and in *Wetherill* v. *Williamsburgh City Fire Ins. Co.,* 60 Pa. Super. Ct. 37, where the car was backed into an open elevator shaft, there was a collision, within the meaning of the insurance policy, with the floor below. Also there was a collision, within the insurance policy, with the water in *Harris* v. *Am. Casualty Co. of Reading,* 83 N. J. Law, 641, when the car ran through the bridge rail and fell into the stream below. Cases contrary are *O'Leary* v. *St. Paul Fire & Marine Ins. Co.* (Tex. Civ. App.), 196 S. W. 575, and *Weltengel* v. *United States "Lloyds,"* 157 Wis. 433. In the principal case reference is made to *Bell* v. *American Ins. Co.* (Wis., 1921), 181 N. W. 733, decided but a short time before, which held that the tipping over of an automobile in the highway is not a collision between it and the roadbed within a similar clause in the policy. These cases cannot be reconciled and considering the dictionary definition and the probable intention of the insured, and that the contract is to be most strongly construed against the insurer, the Michigan decision seems the more logical and just.

MARRIAGE—MISREPRESENTATION AS TO NAME AND CONDITION. — The defendant falsely represented that he was from Alaska and that his financial and social positions were good. He married the petitioner under an assumed name with the very purpose of temporarily cohabiting with her and then disappearing without leaving any trace by which he might be located. After a brief time he deserted her and she petitions for annulment of the marriage on the ground of fraud. *Held,* that the petition must be denied. *Chipman* v. *Johnston,* (Mass., 1921), 130 N. E. 65.

Not every error or mistake into which an innocent party to a marriage may fall, even though induced by false statements or practices will afford grounds for its annulment. Fraud, in order that it be ground for annulment, must go to the very essence of the marriage contract. See the leading case of *Reynolds* v. *Reynolds,* 3 Allen 605. Where, as there pointed out, "there is no mistake as to the identity of the person, any error or misapprehension as to personal traits or attributes, or concerning the position or circumstances in life of a party, is deemed wholly immaterial, and furnishes no good cause for divorce." Here there is no doubt that wicked deception was perpetrated upon the petitioner, and the false representations would have justified her in breaking an agreement to marry if she had ascertained the facts in time. *Van Houten* v. *Morse,* 162 Mass. 414. But after the marriage and cohabitation occurred a status was created which the law must protect. See *Foss* v. *Foss,* 12 Allen 26; *Vondal* v. *Vondal,* 175 Mass. 383; *Commonwealth* v. *Sha-*

man, 223 Mass. 62. In the following cases the validity of the marriage was upheld where one of the parties assumed a false name: *Meyer* v. *Meyer,* 7 Ohio Dec. 627; *King* v. *Inhabitants of Burton on Trent,* 3 M. & S. 537; *King* v. *Inhabitants of Billinghurst,* 3 M. & S. 250. In a note to the last case are a number of decisions to the contrary, but these do not need to be considered, for they rest on the peculiar terms of the Marriage Act of England. The strict rule has been somewhat relaxed in some jurisdictions either by statute or by judicial decision. See *Davis* v. *Davis,* 90 N. J. Eq. 158; *Parsons* v. *Parsons,* 68 Vt. 95; *Gatto* v. *Gatto,* 79 N. H. 177. The New York courts especially are extremely liberal. See the leading case of *Di Lorrenzo* v. *Di Lorrenzo,* 174 N. Y. 467; See also *Robert* v. *Robert,* 87 Misc. Rep. 629, where there was a false representation as to financial conditions as in the instant case and yet the court reached a contrary decision. In the instant case the man the petitioner married was the human being she intended to marry. The false representations concerned only the respondent's position or circumstances in life. The fraud was not such as would prevent the party entering into the marriage relation, or having entered into it, would preclude the performance of the marital duties. Therefore, the court in the instant case, in accordance with the strict rule followed in Massachusetts, properly refused relief. See *Day* v. *Day,* 236 Mass. 362; and *Trask* v. *Trask,* 114 Me. 60.

MASTER AND SERVANT—MASTER'S LIABILITY FOR WILFUL TORTS OF SERVANT.—Money had been sent to the plaintiff through the defendant telegraph company. While the latter's messenger was delivering it to the plaintiff at her home, he made an indecent proposal to her. *Held,* (two justices dissenting), the defendant is liable for the misconduct of its messenger. *Buchanan* v. *Western Union Telegraph Co.,* (So. Car., 1920), 106 S. E. 159.

Generally a master is liable for the wilful or malicious tort of his servant only when the act is within the scope of his employment and in furtherance of the master's business. *Illinois Central Railroad* v. *Ross,* 31 Ill. App. 170. These limitations on the master's liability are not recognized where he owes a special duty of protection to the injured party. The duty may be founded on contract * * * as between carrier and passenger, or innkeeper and guest. *Craker* v. *C. & N. W. Ry. Co.,* 36 Wis. 657; *Birmingham Railway L. & P. Co.* v. *Parker,* 161 Ala. 248; *Savannah F. & W. Ry. Co.* v. *Quo,* 103 Ga. 125; *Clancy* v. *Barker* 71 Neb. 83. The duty may be imposed for reasons of public policy, as in cases where the master entrusts the control of a dangerous object or instrumentality to his servant. *Railway* v. *Shields,* 47 Ohio St. 387. On similar considerations of policy, express companies and proprietors of stores, shops and theatres have been held liable for the wilful torts of their servants committed against those coming to their places of business as patrons, though the servant was not acting within the scope of his employment nor in furtherance of his master's business. See *Dickson* v. *Waldron,* 135 Ind. 507; *Richberger* v. *American Express Co.,* 73 Miss. 161; *Brooks* v. *Jennings County etc. Ass'n.,* 35 Ind. App. 221. Though the *"ratio decidendi"* of the principal case is not definitely stated, it rests primarily on grounds of